

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Progressive Enterprises, Inc./Castaways Yacht Club  
and  
The Sunseeker Club in Annapolis, Inc.

**CIVIL NO. 08-3553-KMK-GAY**

Plaintiffs,

**ECF CASE**

-against-

M/Y CUQUITO (Hull ID No. TNRD1719J091), her  
engines, tackle, apparel, furniture, equipment, and all  
other necessities thereunto appertaining and belonging  
*in rem*;

The Sunseeker Club, Inc. *in personam*;

M/Y BACKCOVE29030 (Hull ID No. NEH29030G405),  
her engines, tackle, apparel, furniture, equipment and all  
other necessities thereunto appertaining and belonging  
*in rem*;

**MOTION FOR ORDER TO  
ISSUE WARRANTS FOR  
ARREST OF VESSEL**

The Sunseeker Club at Castaways, Inc., *in personam*

Defendants.

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Progressive Enterprises, Inc./Castaways Yacht Club and The Sunseeker Club In  
Annapolis, Inc. ("Plaintiffs") hereby move pursuant to Rule C of the Supplemental Rules for  
Certain Admiralty and Maritime Claims for an Order directing the Clerk of Court to issue a  
Warrant for the arrest of the Motor Yacht CUQUITO (Hull ID No. TNRD1719J091), her  
engines, tackle, apparel, furniture, equipment and all other necessities thereunto appertaining and  
belonging (collectively the "CUQUITO") and a Warrant for the arrest of the Motor Yacht

BACKCOVE29030 (Hull ID No.NEH29030G405), her engines, tackle, apparel, furniture, equipment and all other necessities thereunto appertaining and belonging (collectively the "BACKCOVE29030"). In support of this Motion, Plaintiffs aver as follows:

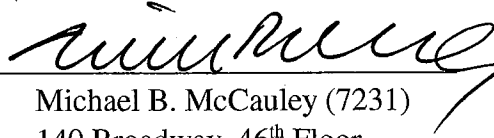
1. Plaintiffs have filed a Verified Complaint against the CUQUITO *in rem* and against the BACKCOVE29030 *in rem*.
2. As set forth in the Complaint, the preferred ship mortgage on the CUQUITO and the preferred ship mortgage on the BACKCOVE29030 are each in default, which default entitles Plaintiffs to proceed against each vessel *in rem* to enforce its preferred mortgage lien. 46 U.S.C. § 31325(b)(1).
3. Where a preferred mortgage lien is sought to be enforced by an action *in rem*, the court must review the complaint and any supporting papers. If the conditions for an *in rem* action appear to exist, the court must issue an order directing the clerk to issue a warrant for the arrest of the vessel or other property that is the subject of the action.  
  
Fed. R. Civ. P. Supp. C(3)(a)(i).
4. The conditions for an *in rem* action against each vessel having been met, Plaintiffs respectfully requests that an Order be entered directing the Clerk of Court to issue a Warrant for the arrest of the CUQUITO and a Warrant for the arrest of the BACKCOVE29030.

[signature on next page]

Respectfully submitted,

PALMER BIEZUP & HENDERSON LLP

Dated: April 15, 2008  
New York, New York

By:   
Michael B. McCauley (7231)  
140 Broadway, 46<sup>th</sup> Floor  
PMB46030  
New York, NY 10005  
(212) 406-1855  
(212) 858-7651 (Fax)  
mccauley@pbh.com

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Progressive Enterprises, Inc./Castaways Yacht Club  
and  
The Sunseeker Club in Annapolis, Inc.

**CIVIL NO. 08-3553-KMK-GAY**

Plaintiffs,

**ECF CASE**

-against-

M/Y CUQUITO (Hull ID No. TNRD1719J091), her  
engines, tackle, apparel, furniture, equipment, and all  
other necessities thereunto appertaining and belonging  
*in rem*;

The Sunseeker Club, Inc. *in personam*;

M/Y BACKCOVE29030 (Hull ID No. NEH29030G405),  
her engines, tackle, apparel, furniture, equipment and all  
other necessities thereunto appertaining and belonging  
*in rem*;

**ORDER TO ISSUE WARRANTS  
FOR ARREST OF VESSEL**

The Sunseeker Club at Castaways, Inc., *in personam*

Defendants.

-----X

Upon review of the Verified Complaint and Plaintiffs' Motion for an Order directing the Clerk of Court to issue a Warrant for the arrest of the M/Y CUQUITO and a Warrant for the arrest of the M/Y BACKCOVE29030, and the conditions for an *in rem* action appearing to exist,

IT IS ORDERED that the Clerk of Court shall issue a Warrant for the arrest of the Motor Yacht the Motor Yacht CUQUITO (Hull ID No. TNRD1719J091), her engines, tackle, apparel, furniture, equipment and all other necessities thereunto appertaining and belonging;

IT IS FURTHER ORDERED that the Clerk of Court shall issue a Warrant for the arrest of the Motor Yacht BACKCOVE29030 (Hull ID No.NEH29030G405), her engines, tackle, apparel, furniture, equipment and all other necessities thereunto appertaining and belonging;

IT IS FURTHER ORDERED that any person who asserts a right of possession or any ownership interest in the property arrested pursuant to said Warrants may, upon a showing of any improper practice or a manifest want of equity on the part of Plaintiffs, be entitled to an order requiring Plaintiffs to show cause forthwith why the arrest should not be vacated or other relief granted; and

IT IS FURTHER ORDERED that a copy of this Order and a copy of the Verified Complaint be attached to and served with each of the Warrants upon execution.

Dated: April \_\_\_\_, 2008  
White Plains, New York

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UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Progressive Enterprises, Inc./Castaways Yacht Club  
and  
The Sunseeker Club in Annapolis, Inc.

**CIVIL NO. 08-3553-KMK-GAY**

Plaintiffs,

**ECF CASE**

-against-

M/Y CUQUITO (Hull ID No. TNRD1719J091), her  
engines, tackle, apparel, furniture, equipment, and all  
other necessities thereunto appertaining and belonging  
*in rem*;

The Sunseeker Club, Inc. *in personam*;

M/Y BACKCOVE29030 (Hull ID No. NEH29030G405),  
her engines, tackle, apparel, furniture, equipment and all  
other necessities thereunto appertaining and belonging  
*in rem*;

**WARRANT FOR ARREST  
OF M/Y CUQUITO**

The Sunseeker Club at Castaways, Inc., *in personam*

Defendants.

-----X

**TO: THE UNITED STATES MARSHAL  
SOUTHERN DISTRICT OF NEW YORK**

**WHEREAS** a Verified Complaint in Admiralty has been filed in the United States District Court for the Southern District of New York against the Motor Yacht CUQUITO (Hull ID No. TNRD1719J091), her engines, tackle, apparel, furniture, equipment and all other necessities thereunto appertaining and belonging *in rem* (collectively the "CUQUITO");

**WHEREAS** an Order has been entered directing that a Warrant for the arrest of the CUQUITO be issued pursuant to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims;

**YOU ARE THEREFORE COMMANDED** to arrest the CUQUITO forthwith and to detain the same until further order of this Court or until the release of the same is duly obtained; and

**YOU ARE FURTHER COMMANDED** to forthwith serve this Warrant, a copy of the Order directing the issuance of this Warrant, and a copy of the Verified Complaint upon the Master or other ranking officer or caretaker of the CUQUITO, making due and prompt return upon execution of this process.

Issued this \_\_\_\_\_ day of April 2008.

Clerk, United States District Court

By:

Deputy Clerk

Any person who asserts a right of possession or any ownership interest in the CUQUITO must file a verified statement of right or interest with the Clerk of Court and answer or except to the Verified Complaint within the times prescribed by Rule C(6)(a) of the Supplemental Rules for Certain Admiralty and Maritime Claims; otherwise an Interlocutory or Final Judgment may be entered as proper.

Attorneys for Plaintiff are:

Palmer Biezup & Henderson LLP  
By: Michael B. McCauley (7231)  
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New York, NY 10005  
(212)·406·1855  
(212)·858·7651 (Fax)  
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This Warrant is issued pursuant to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Progressive Enterprises, Inc./Castaways Yacht Club  
and  
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M/Y BACKCOVE29030 (Hull ID No. NEH29030G405),  
her engines, tackle, apparel, furniture, equipment and all  
other necessities thereunto appertaining and belonging  
*in rem*;

**WARRANT FOR ARREST  
OF M/Y BACKCOVE29030**

The Sunseeker Club at Castaways, Inc., *in personam*

Defendants.

-----X

**TO: THE UNITED STATES MARSHAL  
SOUTHERN DISTRICT OF NEW YORK**

**WHEREAS** a Verified Complaint in Admiralty has been filed in the United States District Court for the Southern District of New York against the Motor Yacht BACKCOVE29030 (Hull ID No. NEH29030G405), her engines, tackle, apparel, furniture, equipment and all other necessities thereunto appertaining and belonging *in rem* (collectively the "BACKCOVE29030");



**WHEREAS** an Order has been entered directing that a Warrant for the arrest of the BACKCOVE29030 be issued pursuant to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims;

**YOU ARE THEREFORE COMMANDED** to arrest the BACKCOVE29030 forthwith and to detain the same until further order of this Court or until the release of the same is duly obtained; and

**YOU ARE FURTHER COMMANDED** to forthwith serve this Warrant, a copy of the Order directing the issuance of this Warrant, and a copy of the Verified Complaint upon the Master or other ranking officer or caretaker of the BACKCOVE29030, making due and prompt return upon execution of this process.

Issued this \_\_\_\_\_ day of April 2008.

Clerk, United States District Court

By:

Deputy Clerk

Any person who asserts a right of possession or any ownership interest in the CUQUITO must file a verified statement of right or interest with the Clerk of Court and answer or except to the Verified Complaint within the times prescribed by Rule C(6)(a) of the Supplemental Rules for Certain Admiralty and Maritime Claims; otherwise an Interlocutory or Final Judgment may be entered as proper.

Attorneys for Plaintiff are:

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This Warrant is issued pursuant to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.